



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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JUN 20 2008

JUDGE SCHEINDLIN

ANDREW M. CUOMO

Attorney General

LESLIE G. LEACH

Executive Deputy Attorney General  
Division of State Counsel

JUNE DUFFY

Assistant Attorney General in Charge  
Litigation Bureau

June 20, 2008

**By Fax**

The Honorable Shira A. Scheindlin  
United States District Judge  
United States District Court  
500 Pearl Street, Room 1620  
New York, New York 10007-1312  
Fax # 212/805-7920

Re: Gardner v. Daddezio, et al.  
07-Civ-7201 (SAS) (Pro Se)

Dear Judge Scheindlin,

Defendants respectfully request to extend the time to serve a summary judgment motion in the above-captioned matter from June 27 until July 7, 2008. This is the first application to extend the summary judgment schedule. Plaintiff's consent has not been sought because of the difficulty inhering in prompt communication with pro se prisoners. Defendants also respectfully request that the motion be deemed their response to plaintiff's amended complaint.

The additional time is requested because the previously John Doe defendant Sergeant Roy Haller was not served until June 17, 2008, when he executed an acknowledgment of receipt of summons and complaint. By rule, NY CPLR § 312-a(b)(2), Sgt. Haller is entitled to 20 days to respond. The time is also needed to prepare Sgt. Haller's response. The request is also made on behalf of the other defendant, Corrections Officer D'Addezio, in order to present a single fully dispositive motion. Corresponding to the requested extension, it is also respectfully requested that plaintiff's time to respond be extended from August 1 to August 11, 2008, and the time for a reply brief be extended from August 15 to August 25, 2008.

Respectfully submitted,

*Steven N. Schulman*  
STEVEN N. SCHULMAN (SS3894)  
Assistant Attorney General  
(212) 416-8654  
Fax # (212) 416-6009

Defendants' request is granted. Defendants' moving papers are due July 7, 2008. Plaintiff's response is due on August 11, 2008. Defendants' reply, if any, is due August 25, 2008.

By Post Shira A. Scheindlin  
J.S.D.  
Phillip Jerome Gardner  
00-A-1955  
Great Meadow Correctional Facility  
11739 State Route 22  
Comstock, New York 12821

Filed: New York, New York  
June 20, 2008

cc: